

TO MICHIGAN HOUSE HEALTH POLICY COMMITTEE HEARING 9-22-15
CHAIR REP MIKE CALLTON

6 pages

STATEMENT AND INFORMATION OPPOSING HB 4674-AOT REVISIONS, AND URGING REPEAL OF MCL 330.1401(c) and (d), AND URGING EXPLICIT STATUTORY PROTECTION (REVISING 330.1718) FOR THE COMMON LAW RIGHT TO INFORMED CONSENT AND CONSTITUTIONAL RIGHT TO REFUSE PSYCHOTROPIC DRUGS

The Constitutions require that 1401(c) and (d) be repealed immediately. 42 USC 241 prohibits retaliation for the exercise of Constitutional rights. Assault with harmful, fraudulent psychotropic drugs because of an assertion of the right to refuse the drugs, or because of an assertion of the equal protection of the law of informed consent, or because the recipient has vastly different views than the Doctor about the quality and value of the drugs at issue, is a felony crime.

Doctors who claim in court that objections to psychotropic drugs are unjustified and prove lack of understanding are frequently guilty of perjury. Doctors who make this claim out of court are frequently guilty of fraud. Most recipients who object to psychotropic drugs have very good reasons to do so.

The clinical certificates used to commit should not even be allowed into court as evidence under the Rules of Evidence MRE 401,402,403,702, and Daubert v M.D. Pharmaceuticals (1993) standards, and under due process and equal protection. The scientific/scholarly community overwhelmingly agrees that psychiatric predictions of dangerousness are very unreliable, have high error rates (often greater than 50%), cannot be tested for truth at the time provided to court, are easily falsified, are fraught with bias, and their probative value is substantially outweighed by unfair prejudice. No one seriously disputes that psychiatric predictions of dangerousness are much less reliable than polygraph evidence which is inadmissible in most states. Note, Ziskin and Faust, COPING WITH PSYCHIATRIC TESTIMONY (1988), the continued participation of psychiatrists "in the legal process is a travesty." P.76.

Sufficient scrutiny also reveals that involuntary psychiatric exams should be prohibited to begin with under Constitutional protections of the right to remain silent and not to speak. Note, In Re Baker, 117 Mich App 583, Cavanagh dissenting, "If a respondent is really a danger... the state should be able to prove it through other means."

U.S. Fraud law applicable to the prescribing of APDs includes: 18 USC 1347, defrauding a health care benefit program, (including Medicaid and Medicare), 10 year felony, 20 year felony where bodily injury results, up to life in prison where death results. 18 USC 1035, 18 USC 287, 18 USC 1341,1343, 18 USC 1001, 18 USC 371, 18 USC 1518.

In investigating the medical/factual question of APD fraud the following questions should be answered: Do the drugs heal or harm the brain? Are the drugs neurotherapeutic or neurotoxic? Do the drugs make a person healthy or unhealthy? Do they enhance or diminish quality of life? Cause happiness or misery? Tranquility or distress? Cure or disable? Improve or impair mental functioning? The medical evidence is overwhelming that if any person objects to these drugs they have good reason to do so, and psychiatrists know it. I urge immediate investigation of, and corrective action on these matters.

Thank you. Sincerely,



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ANTIPSYCHOTIC DRUGS, THE 1ST AMENDMENT, MEDICAL FRAUD AND OBSTRUCTING JUSTICE

Non-consensual antipsychotic drugging is, in addition to medical fraud, a most serious abridgment of 1st Amendment liberties, including: the freedom of speech, thought, expression, belief, association, religious exercise, access to the courts, and the right to petition government for redress of grievances. Note, Bruce Winik, The Right To Refuse Treatment: A First Amendment Perspective, 44 U. Miami Law Review, 1. "Antipsychotic drugs have the capacity to severely and even permanently affect an individual's ability to think and communicate." US v Brandon, 158 F3rd 947 (6th Circuit). Once a person is committed to a hospital, and are not dangerous within the facility, then forced drugging massively violates the 1st Amendment's Overbreadth Doctrine, U.S. v Stevens (2010), Erznoznik v Jacksonville, 422 US 205. Forced drugging also violates the Constitution's Least Restrictive Means Test, Shelton v Tucker, 364 US 479, Bee v Greaves, 744 F2nd 1387, Brandon Id., since 24 hour a day, week on end, APD drugging is a most intrusive, rather than least restrictive infringement. Most 1st Amendment violations, such as the removal of a few books from a middle school library, Board of Educ. V PICO, 457 US 853, pale in comparison to the mental impairment and brain damage caused by forced psychotropic drugging. Psychiatrists will typically deny the drugs invade 1st Amendment guarantees, and attribute patient's complaints about antipsychotic drugs to the patient's own psychosis or mental illness, thereby obstructing, and retaliating against, a patient's honest offering of evidence in a legal matter, with intentional false statements about the effects of the drugs, and about the veracity of the patient. Justice is also obstructed, and the right to court access also abridged, when forced drugging impedes an involuntary recipient's ability to defend themselves in court, safeguard their rights, appeal, sue, prove themselves not mentally ill, or secure release. Note, Bounds v Smith, 430 US 817, Bieregu v Reno, 59 F3rd 1443. Contrary to what psychiatrists would have us believe non-consensual antipsychotic drugging often exacerbates a mental illness, makes people mentally ill, or makes people appear so, thus tainting legal evidence. Honest scientific/scholarly literature clearly indicates that Michigan's forced drugging laws and psychiatrists who act pursuant to them violate the Constitution(s), commit medical fraud, and obstruct justice. It is time for MCL 330.1401 to be immediately reformed to protect the right of informed consent for psychiatric treatments.

Neuropsychopharmacology, K.A. Dorph-Petersen, et al., March 2005: Both first and second generation antipsychotic drugs shrink the brains in monkeys 8-11%, with frontal and parietal lobes shrinking 11-15%

Nature Neuroscience, H.Tost, et al., June 2010: A single dose of a commonly prescribed APD shrinks the brain within hours of administration. "This is the fastest change in brain volume ever seen."

British Journal of Psychiatry, Aug. 1977: Single dose of APD caused "marked slowing of thinking", "profound cognitive restriction", "severe anxiety" and they could not continue work.

Law, Behavior, and Mental health Policy, Smith and Meyer, 1987: APDs may make "reading, talking, and social interactions difficult or impossible."

Molecular Brain Research, R. Castro, et al., Oct. 1994: APDs "induce long-term deleterious effects in offspring development when administered prenatally."

Lancet, A.L. Madsen, et al., Sept. 1998: APDs caused brain shrinkage/atrophy.

Lars Martinson M.D., Should Neuroleptic Drugs Be Banned?, 1985: APDs cause "serious and certain brain damage."

Gary Kohls M.D., Mental illness Epidemic: Drugs Are The Problem, 2010: APDs cause "cognitive disorders, brain damage, loss of creativity, loss of spirituality, loss of empathy, loss of energy, loss of strength, fatigue and tiredness, permanent disability, increased depression, anxiety, psychosis."

Fred Baughman M.D., Psychiatry Is Not A Medical Practice, 2010: Instead of helping people, psychiatrists use drugs to damage our main organ of adaption-the brain-and call it treatment. Psychiatrists are guilty of a harmful health care fraud.

USA Today Magazine, T. Bibeau, Psychiatric Drugs Kill The Lives of Those Who Take Them, May 1994: APDs have long been known to ruin lives instead of curing illnesses. The drugs can cause psychosis, destroy mental functioning, and make people mute and disabled.

Quarterly Journal of Medicine, B. Charlton, M.D., Why Are Doctors Still Prescribing Neuroleptics?, 2006: APDs should be "replaced by gentler and safer sedatives." APDs are dangerous, unpleasant, and suppress behavior rather than cure illnesses. The medical truth represents a disaster for the reputation of psychiatry.

Neuroscience, Milstein, et al., Nov. 2010: Animal experiments indicate exposure to APDs in fetal life or early childhood "produces long-term behavioral dysfunction."

Lawrence Stevens J.D., Psychiatric Drugs: Cure or Quackery?, 1997: APDs damage the brain clearly and permanently. It is "criminal" to use these drugs on mental patients, and "a crime worse than rape" to force them on patients against their consent. APDs cause "misery- not tranquility", "they blot out a person's ability to think and act", but "this is disabling people, not therapy".

MICHIGAN MENTAL HEALTH CODE SHOULD BE REVISED TO ENSURE THAT ILLEGAL MISCONDUCT IN PSYCHIATRIC COMMITMENT CLINICAL CERTIFICATIONS/EXAMINATIONS IS SUBJECTED TO CIVIL LIABILITY

A most important right for these vulnerable persons is the right to avoid being illegally committed to a psychiatric facility. This right is especially important in Michigan where committed patients are unable to refuse non-consensual psychiatric drugging. Unfortunately, Michigan is also among the very worst states in protecting the right of persons not to be illegally and unconstitutionally committed. Michigan should revise the Mental Health Code to ensure civil liability for psychiatric commitment certifications. Most of the other states have statutes that hold liable negligent or intentional misconduct in psychiatric commitment evaluations/certifications.

Civil justice is crucial to both deterring wrong-doing and remedying injury. In Michigan, the judiciary has improperly deprived persons subjected to illegal commitment certifications the right to sue for redress by creating an absolute immunity from liability even for intentional wrongs, Dabkowski v Davis, 111 NW2d 68, (1961). The judiciary in other states such as New York and New Jersey have recognized no such immunity, and hold physician certifications to a negligence/medical malpractice standard. The creation of the absolute immunity in Michigan was especially improper given the notorious unconstitutionality of psychiatric commitment proceedings and the history of abuse.

Most states stipulate that commitment exams/certifications are actionable for either negligence or gross negligence/willful misconduct. Absolute immunity means that those who abuse the commitment power cannot be sued no matter how harmful, obvious, corrupt, abusive, unconstitutional, malicious or frequent the misconduct. Absolute immunity results in a catastrophic theft of the individual's rights. Malpractice, intentional torts including, abuse of process, assault and battery, false imprisonment, fraud, malicious prosecution, privacy, and all constitutional claims are all eliminated by absolute immunity. Michigan judges have no legitimate authority to make or unmake laws, or make special exceptions in the laws, unless a law conflicts with the constitution. Can you imagine judges ignoring shockingly unconstitutional laws and instead making laws which allow select groups of persons to evade the laws and constitutional accountability, contrary to constitutional rules- such as equal protection of the laws, and repugnant to our principles of liberty and justice for all, and the rule of law. The immunity set forth in Dabkowski v Davis is an abuse of judicial power and a perversion of the common law. Note, Mich. Const. Art. III 2 (judicial branch shall not exercise legislative powers), 7 (Common law repugnant to the constitution invalid). Note also Michigan's first constitution Art. I 21 "All acts of the legislature contrary to this [Bill of Rights] or any other article of this constitution shall be void."

The public policy debate over absolute immunity is properly ended by the fact that the other states have proven that obstructing justice for these victims of psychiatric abuse is completely unnecessary. The debate is about whether law and justice are wiser than no law or justice, and whether it is wise to keep those wielding great powers over the lives and liberties of others accountable to the law. Careful examination of the history psychiatric commitments throughout the U.S. indicates liability is in the public's interest. The real policy problem is that lawyers shy away from wrongful commitment cases no matter how meritorious.

Sincerely,



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